
By: **Senators Haines, Jacobs, Forehand, and Giannetti**

Introduced and read first time: February 3, 2004

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions - Claims against Design Professionals**

3 FOR the purpose of prohibiting certain claims for damages for personal injury or
4 death against a design professional or an employee of a design professional by a
5 person who is not a party to a certain contract with the design professional
6 under certain circumstances; providing for certain exceptions; defining certain
7 terms; providing for the application of this Act; and generally relating to
8 prohibiting certain claims for damages for personal injury or death against
9 design professionals under certain circumstances.

10 BY adding to

11 Article - Courts and Judicial Proceedings

12 Section 3-2D-01 and 3-2D-02, inclusive, to be under the new subtitle "Subtitle

13 2D. Claims against Design Professionals"

14 Annotated Code of Maryland

15 (2002 Replacement Volume and 2003 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Courts and Judicial Proceedings**

19 **SUBTITLE 2D. CLAIMS AGAINST DESIGN PROFESSIONALS.**

20 3-2D-01.

21 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
22 INDICATED.

23 (B) "CLAIM" MEANS A CIVIL ACTION, INCLUDING AN ORIGINAL CLAIM,
24 COUNTERCLAIM, CROSS-CLAIM, OR THIRD-PARTY CLAIM, FILED AGAINST A DESIGN
25 PROFESSIONAL THAT IS BASED ON THE DESIGN PROFESSIONAL'S ALLEGED
26 NEGLIGENT ACT OR OMISSION IN RENDERING PROFESSIONAL SERVICES.

1 (C) "DESIGN PROFESSIONAL" MEANS ONE OF THE FOLLOWING PERSONS, OR A
2 PERSON THAT PROVIDES DESIGN SERVICES THROUGH THE PRACTICE OF ONE OR
3 MORE OF THE FOLLOWING PERSONS:

4 (1) AN ARCHITECT LICENSED UNDER TITLE 3 OF THE BUSINESS
5 OCCUPATIONS AND PROFESSIONS ARTICLE OR AUTHORIZED BY LAW TO PRACTICE AS
6 AN ARCHITECT;

7 (2) A CONSTRUCTION INSPECTOR WHO IS AUTHORIZED BY LAW TO
8 PRACTICE AS A CONSTRUCTION INSPECTOR;

9 (3) AN INTERIOR DESIGNER CERTIFIED UNDER TITLE 8 OF THE
10 BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE OR AUTHORIZED BY LAW TO
11 PRACTICE AS AN INTERIOR DESIGNER;

12 (4) A LANDSCAPE ARCHITECT LICENSED UNDER TITLE 9 OF THE
13 BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE OR AUTHORIZED BY LAW TO
14 PRACTICE AS A LANDSCAPE ARCHITECT;

15 (5) A PROFESSIONAL DESIGN FIRM AUTHORIZED BY LAW TO PRACTICE
16 AS A PROFESSIONAL DESIGN FIRM;

17 (6) A PROFESSIONAL ENGINEER LICENSED UNDER TITLE 14 OF THE
18 BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE OR AUTHORIZED BY LAW TO
19 PRACTICE AS A PROFESSIONAL ENGINEER; OR

20 (7) A PROFESSIONAL LAND SURVEYOR OR PROPERTY LINE SURVEYOR
21 LICENSED UNDER TITLE 15 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS
22 ARTICLE OR AUTHORIZED BY LAW TO PRACTICE AS A PROFESSIONAL LAND
23 SURVEYOR OR PROPERTY LINE SURVEYOR.

24 3-2D-02.

25 (A) THIS SECTION DOES NOT APPLY TO A CLAIM AGAINST A DESIGN
26 PROFESSIONAL FOR NEGLIGENT PREPARATION OF DESIGN PLANS AND
27 SPECIFICATIONS.

28 (B) UNLESS A DESIGN PROFESSIONAL SPECIFICALLY ASSUMES BY CONTRACT
29 RESPONSIBILITY FOR THE MEANS, METHODS, TECHNIQUES, AND SAFETY PROGRAMS
30 AND PRACTICES OF THE CONSTRUCTION WORK ON A CONSTRUCTION PROJECT, AND
31 THE PROVISIONS OF THE CONTRACT WERE MUTUALLY NEGOTIATED, OR UNLESS A
32 DESIGN PROFESSIONAL BY CONDUCT EXERCISES CONTROL OVER THE MEANS,
33 METHODS, TECHNIQUES, AND SAFETY PROGRAMS AND PRACTICES OF THE
34 CONSTRUCTION WORK IN THE PORTION OF THE SITE OF A CONSTRUCTION PROJECT
35 ON WHICH A PERSONAL INJURY OR DEATH OCCURS, A PERSON WHO IS NOT PARTY TO
36 A CONTRACT WITH THE DESIGN PROFESSIONAL MAY NOT FILE A CLAIM FOR
37 DAMAGES FOR PERSONAL INJURY OR DEATH IN CONNECTION WITH A WORKSITE
38 INJURY AGAINST:

1 (1) THE DESIGN PROFESSIONAL THAT IS PERFORMING PROFESSIONAL
2 SERVICES WITHIN THE SCOPE OF THE DESIGN PROFESSIONAL'S CONTRACT; OR

3 (2) AN EMPLOYEE OF THE DESIGN PROFESSIONAL WHO ASSISTS OR
4 REPRESENTS THE DESIGN PROFESSIONAL IN PERFORMING PROFESSIONAL
5 SERVICES WITHIN THE SCOPE OF THE DESIGN PROFESSIONAL'S CONTRACT.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
7 construed to apply only prospectively and may not be applied or interpreted to have
8 any effect on or application to any cause of action arising before the effective date of
9 this Act.

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
11 effect October 1, 2004.